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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,536	04/26/2006	Abraham Karel Riemens	NL03 1293 US1	9590

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PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE, CA 95131

EXAMINER

NGHIEM, MICHAEL P

ART UNIT	PAPER NUMBER
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2863

MAIL DATE	DELIVERY MODE
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09/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,536	Applicant(s) RIEMENS ET AL.	
	Examiner Michael P. Nghiem	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4-26-06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

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The disclosure is objected to because of the following informalities: References to claims (e.g. "claim 1", page 3, line 8; "claim 2", page 4, line 16; "claim 3", page 4, line 19) should be deleted since claims are deemed to be amended or cancelled.

Appropriate correction is required.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

"Comprising" (line 1) is an improper legal phraseology.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second connection (claim 3) and the video processing unit (claim 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- claim 1, "the communication load" (line 6) lacks antecedent basis.

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- claim 15 does not recite structural relationships between elements. The claim recites only one element, i.e., an integrated circuit.

The remaining claims are also rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by VanderSpek et al. (US 5,440,722).

Regarding claim 1, VanderSpek et al. discloses an integrated circuit (Fig. 1) comprising a data processing system (10) the data processing system comprising a plurality of processing units (12's; column 2, lines 51-52) and a resource (14) shared by at least two of the processing units (Fig. 1) characterized by at least one measurement unit (12a) the measurement unit being arranged to measure properties of the communication load imposed on the resource by the processing units over a time

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interval (Abstract, lines 4-9), the measurement unit also being arranged to perform statistical operations on the properties of the communication load, wherein the statistical operations provide measurement results (Abstract, lines 8-9).

Regarding claim 2, VanderSpek et al. discloses the measurement unit measures the properties of the communication load by observing the communication traffic on a first connection (connection between 12a and 14), the first connection being established between a processing unit and the resource (Fig. 1).

Regarding claim 3, VanderSpek et al. discloses the measurement unit measures the properties of the communication load by observing the communication traffic on a second connection, the second connection being established between parts of the resource (segments of 14 are connected, Fig. 1).

Regarding claim 4, VanderSpek et al. discloses the measurement unit comprises a measurement controller (20) and a plurality of measurement data buffers (22, 24), the measurement controller being arranged to perform the statistical operations and to store the measurement results in the measurement data buffers (column 3, lines 20-22).

Regarding claim 5, VanderSpek et al. discloses the measurement controller is further arranged to partition the properties of the communication load into distinct classes (compile statistics by each circuit boards, Abstract, lines 2-4) and to perform the

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statistical operations on at least one of the distinct classes separately (Abstract, lines 2-4).

Regarding claim 6, VanderSpek et al. discloses the time interval being divided into a plurality of units, wherein the measurement controller is further arranged to perform statistical operations on the properties of the communication load over each unit and to provide the measurement results as a trace over time (statistics regarding CPU time, column 5, lines 63-66).

Regarding claim 7, VanderSpek et al. discloses the measurement controller is further arranged to communicate with a control processor (26) the control processor being equipped with a program, the program being conceived to configure the measurement unit (column 3, lines 33-47).

Regarding claim 8, VanderSpek et al. discloses the program is further conceived to enable the control processor to retrieve the measurement results from the measurement unit (column 3, lines 43-45).

Regarding claim 9, VanderSpek et al. discloses the program is further conceived to enable the control processor to control the operation of the resource or to control the operation of the processing units (column 3, lines 33-47).

Regarding claim 10, VanderSpek et al. discloses the measurement unit is arranged to measure the amount of data transferred over the first connection or over the second connection, the amount of data transferred being one of the properties of the communication load (Abstract, lines 4-9).

Regarding claim 13, VanderSpek et al. discloses the statistical operations comprise average operations, minimum operations or maximum operations (statistics, Abstract, line 8, are deemed average).

Regarding claim 14, VanderSpek et al. discloses the statistical operations comprise operations creating a set of values constituting a histogram with occurrence rates (use of each circuit, Abstract, lines 8-9).

Regarding claim 15, even though VanderSpek et al. does not disclose a video processing unit, the recitation of the video processing unit has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanderSpek et al. in view of Laprade et al. (US 5,193,179).

VanderSpek et al. discloses all the claimed limitations as discussed above.

However, VanderSpek et al. does not disclose regarding claims 11 and 12, the measurement unit is arranged to measure the latency of a request for data transfer to the resource over the first connection or over the second connection, the latency of a request for data transfer being one of the properties of the communication load.

Nevertheless, Laprade et al. discloses the measurement unit is arranged to measure the latency of a request for data transfer to the resource over the first connection or over the second connection, the latency of a request for data transfer being one of the properties of the communication load (column 7, lines 19-25) for the purpose of establishing efficient run time strategies for resource management (column 2, lines 4-7).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide VanderSpek et al. with measure the latency of a request for data transfer as disclosed by Laprade et al. for the purpose of establishing efficient run time strategies for resource management.

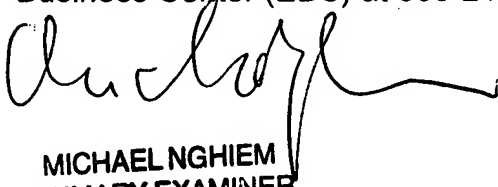
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (571) 272-2277. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL NGHIEM
PRIMARY EXAMINER

Michael Nghiem

August 30, 2007